



Reprinted
April 10, 2007

ENGROSSED HOUSE BILL No. 1824

DIGEST OF HB 1824 (Updated April 9, 2007 4:50 pm - DI 101)

Citations Affected: IC 8-1; noncode.

Synopsis: Various electric utility matters. Amends the definition of "clean coal technology" in various statutes. Defines the term as a technology used at an electric or a steam generating facility to reduce or avoid airborne emissions of: (1) carbon, sulfur, mercury, or nitrogen based pollutants; or (2) particulate matter; that are regulated, or reasonably anticipated by the utility regulatory commission (IURC) to be regulated, by the federal government, the state, or a political subdivision of the state. (The current definition includes only technologies that reduce sulfur or nitrogen emissions.) Allows an existing electric or steam generating facility to petition the IURC for approval of a regulated air emissions project. Requires the IURC to: (1)
(Continued next page)

Effective: Upon passage; July 1, 2007.

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(SENATE SPONSORS — GARD, HERSHMAN, TALLIAN)

January 17, 2007, read first time and referred to Committee on Rules and Legislative Procedures.

February 7, 2007, reassigned to Committee on Commerce, Energy, and Utilities.

February 19, 2007, amended, reported — Do Pass.

February 23, 2007, read second time, amended, ordered engrossed.

February 26, 2007, engrossed. Read third time, passed. Yeas 57, nays 42.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Utilities and Regulatory Affairs.

March 29, 2007, amended, reported favorably — Do Pass.

April 9, 2007, read second time, amended, ordered engrossed.

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EH 1824—LS 6519/DI 44+



approve the project if the IURC finds, after notice and hearing, the project to be reasonable and necessary; and (2) provide certain financial incentives for the project. Requires the IURC to provide certain financial incentives to electricity suppliers for implementing electric line facilities projects. Provides financial incentives for an electric utility's implementation of conservation and load management programs. Requires the IURC to: (1) create specified financial incentives for investments in conservation and load management programs; and (2) review applications by electric utilities for the incentives created. Requires an electric utility that receives incentives for a conservation and load management program to notify the IURC not later than 120 days before using, either directly or indirectly through an affiliate or an unaffiliated third party, any: (1) infrastructure; (2) equipment; or (3) other facilities; for which the incentives are received, to provide broadband over power lines (BPL) or other communications service. Provides that: (1) the incentives terminate at such time as the infrastructure, equipment, or other facilities are used to provide BPL or other communications service; and (2) the electric utility must refund to its Indiana electric customers all incentives received. Requires an electricity supplier (other than a rural electric membership cooperative or a municipally owned utility) to supply a certain percentage of its total electricity supply from renewable energy resources each calendar year, as follows: (1) At least 1% not later than December 31, 2010. (2) At least 2.5% not later than December 31, 2012. (3) At least 4% not later than December 31, 2016. Allows an electricity supplier to own or purchase renewable energy credits to meet the required percentage. Establishes the renewable energy resources fund. Requires an electricity supplier that fails to supply electricity from renewable energy resources in the required percentage to pay a penalty. Deposits the penalties in the fund. Requires the IURC, upon the request of the county executives of three or more counties that are located in an electric utility's service area, to study the feasibility of establishing a regional public power authority to: (1) acquire the assets of an electric utility providing retail electric service on April 1, 2007, in specified counties in Indiana; (2) own and operate the assets acquired; and (3) act as a nonprofit utility to provide retail electric service to customers within the participating units. Requires the commission to report its findings not later than December 31, 2007, to: (1) the regulatory flexibility committee; (2) the legislative council; and (3) the county executive of each county in the electric utility's service area on April 1, 2007. Authorizes the regulatory flexibility committee to recommend any legislation necessary to establish a regional public power authority in Indiana.

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April 10, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1824

A BILL FOR AN ACT to amend the Indiana code concerning
utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in
3 this section, "clean coal technology" means a technology (including
4 precombustion treatment of coal):

5 (1) that is used at a new or existing electric **or steam** generating
6 facility and directly or indirectly reduces **or avoids** airborne
7 emissions:

8 (A) of:

9 (i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

10 (ii) **particulate matter**;

11 (B) **that are** associated with the combustion or use of coal;
12 and

13 (C) **that are regulated, or reasonably anticipated by the**
14 **commission to be regulated, by:**

15 (i) **the federal government**;

16 (ii) **the state**;

17 (iii) **a political subdivision of the state; or**

EH 1824—LS 6519/DI 44+



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(iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal; after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

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- 1 (ii) particulate matter;
- 2 (B) that are associated with the combustion or use of coal;
- 3 and
- 4 (C) that are regulated, or reasonably anticipated by the
- 5 commission to be regulated, by:
- 6 (i) the federal government;
- 7 (ii) the state;
- 8 (iii) a political subdivision of the state; or
- 9 (iv) any agency of a unit of government described in
- 10 items (i) through (iii); and
- 11 (2) that either:
- 12 (A) is not in general commercial use at the same or greater
- 13 scale in new or existing facilities in the United States as of
- 14 January 1, 1989; or
- 15 (B) has been selected by the United States Department of
- 16 Energy for funding under its Innovative Clean Coal
- 17 Technology program and is finally approved for such funding
- 18 on or after January 1, 1989.
- 19 "Indiana coal" means coal from a mine whose coal deposits are
- 20 located in the ground wholly or partially in Indiana regardless of the
- 21 location of the mine's tipple.
- 22 "Qualified pollution control property" means an air pollution control
- 23 device on a coal burning electric **or steam** generating facility or any
- 24 equipment that constitutes clean coal technology that has been
- 25 approved for use by the commission, that meets applicable state or
- 26 federal requirements, and that is designed to accommodate the burning
- 27 of coal from the geological formation known as the Illinois Basin.
- 28 "Utility" refers to any electric **or steam** generating utility allowed
- 29 by law to earn a return on its investment.
- 30 (b) Upon the request of a utility that began construction after
- 31 October 1, 1985, and before March 31, 2002, of qualified pollution
- 32 control property that is to be used and useful for the public
- 33 convenience, the commission shall for ratemaking purposes add to the
- 34 value of that utility's property the value of the qualified pollution
- 35 control property under construction, but only if at the time of the
- 36 application and thereafter:
- 37 (1) the facility burns only Indiana coal as its primary fuel source
- 38 once the air pollution control device is fully operational; or
- 39 (2) the utility can prove to the commission that the utility is
- 40 justified because of economic considerations or governmental
- 41 requirements in utilizing some non-Indiana coal.
- 42 (c) The commission shall adopt rules under IC 4-22-2 to implement

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1 this section.

2 SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in
4 this section, "clean coal technology" means a technology (including
5 precombustion treatment of coal):

6 (1) that is used in a new or existing electric **or steam** generating
7 facility and directly or indirectly reduces **or avoids** airborne
8 emissions:

9 (A) of:

10 (i) **carbon, sulfur, mercury, or nitrogen based pollutants; or**

11 (ii) **particulate matter;**

12 (B) **that are** associated with the combustion or use of coal;
13 and

14 (C) **that are regulated, or reasonably anticipated by the**
15 **commission to be regulated, by:**

16 (i) **the federal government;**

17 (ii) **the state;**

18 (iii) **a political subdivision of the state; or**

19 (iv) **any agency of a unit of government described in**
20 **items (i) through (iii); and**

21 (2) that either:

22 (A) is not in general commercial use at the same or greater
23 scale in new or existing facilities in the United States as of
24 January 1, 1989; or

25 (B) has been selected by the United States Department of
26 Energy for funding under its Innovative Clean Coal
27 Technology program and is finally approved for such funding
28 on or after January 1, 1989.

29 (b) The commission shall allow a public or municipally owned
30 electric **or steam** utility that incorporates clean coal technology to
31 depreciate that technology over a period of not less than ten (10) years
32 or the useful economic life of the technology, whichever is less and not
33 more than twenty (20) years if it finds that the facility where the clean
34 coal technology is employed:

35 (1) utilizes and will continue to utilize (as its primary fuel source)
36 Indiana coal; or

37 (2) is justified, because of economic considerations or
38 governmental requirements, in utilizing non-Indiana coal;

39 after the technology is in place.

40 SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This
42 section applies to a utility that begins construction of qualified

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pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; or

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government**;

(ii) **the state**;

(iii) **a political subdivision of the state**; or

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy **or steam** generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement

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1 this section.

2 SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this
4 chapter, "clean coal technology" means a technology (including
5 precombustion treatment of coal):

6 (1) that is used in a new or existing electric **or steam** generating
7 facility and directly or indirectly reduces **or avoids** airborne
8 emissions:

9 (A) of:

10 (i) **carbon, sulfur, mercury, or nitrogen based pollutants; or**

11 (ii) **particulate matter;**

12 (B) **that are** associated with the combustion or use of coal;
13 and

14 (C) **that are regulated, or reasonably anticipated by the**
15 **commission to be regulated, by:**

16 (i) **the federal government;**

17 (ii) **the state;**

18 (iii) **a political subdivision of the state; or**

19 (iv) **any agency of a unit of government described in**
20 **items (i) through (iii); and**

21 (2) that either:

22 (A) is not in general commercial use at the same or greater
23 scale in new or existing facilities in the United States as of
24 January 1, 1989; or

25 (B) has been selected by the United States Department of
26 Energy for funding under its Innovative Clean Coal
27 Technology program and is finally approved for such funding
28 on or after January 1, 1989.

29 SECTION 6. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS
30 A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE UPON
31 PASSAGE]:

32 **Chapter 8.4. Electric Line Facilities Projects**

33 **Sec. 1. As used in this chapter, "commission" refers to the**
34 **Indiana utility regulatory commission created by IC 8-1-1-2.**

35 **Sec. 2. As used in this chapter, "electric line facilities" means**
36 **the following:**

37 (1) **Overhead or underground electric transmission lines.**

38 (2) **Overhead or underground electric distribution lines.**

39 (3) **Electric substations.**

40 **Sec. 3. As used in this chapter, "electric line facilities project"**
41 **means the construction, operation, maintenance, reconstruction,**
42 **relocation, addition to, upgrading of, or removal of electric line**

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1 facilities.

2 Sec. 4. As used in this chapter, "electricity supplier" means a
3 public utility that furnishes retail electric service to the public.

4 Sec. 5. As used in this chapter, "public utility" has the meaning
5 set forth in IC 8-1-2-1.

6 Sec. 6. As used in this chapter, "regional transmission
7 organization" refers to the regional transmission organization
8 approved by the Federal Energy Regulatory Commission for the
9 control area in which an electricity supplier operates electric line
10 facilities.

11 Sec. 7. The commission shall encourage electric line facilities
12 projects by creating the following financial incentives for electric
13 line facilities that are reasonable and necessary:

14 (1) The timely recovery of costs incurred by an electricity
15 supplier in an electric line facilities project.

16 (2) The timely recovery of costs, by means of a periodic rate
17 adjustment mechanism, incurred by an electricity supplier
18 taking service under a tariff of, or being assessed costs by, a
19 regional transmission organization.

20 Sec. 8. (a) An electricity supplier must submit an application to
21 the commission for approval of an electric line facilities project for
22 which the electricity supplier seeks to receive a financial incentive
23 created under section 7 of this chapter.

24 (b) The commission shall prescribe the form for an application
25 submitted under this section.

26 (c) Upon receipt of an application under subsection (a), the
27 commission shall review the application for completeness. The
28 commission may request additional information from an applicant
29 as needed.

30 (d) The commission shall, after notice and hearing, issue a
31 determination of an electric line facilities project's eligibility for
32 the financial incentives described in section 7 of this chapter not
33 later than one hundred eighty (180) days after the date of the
34 application.

35 (e) Subject to subsection (g), the commission shall approve an
36 application by an electricity supplier for an electric line facilities
37 project that is reasonable and necessary. An electric line facilities
38 project is presumed to be reasonable and necessary if the electric
39 line facilities project is consistent with, or part of, a plan developed
40 by the regional transmission organization.

41 (f) This section does not relieve an electricity supplier of the
42 duty to obtain any certificate required under IC 8-1-8.5 or

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1 **IC 8-1-8.7.**

2 **(g) The commission shall not approve a financial incentive for**
 3 **that part of an electric line facilities project that exceeds the lesser**
 4 **of:**

5 **(1) five percent (5%) of the electricity supplier's rate base**
 6 **approved by the commission in the electricity supplier's most**
 7 **recent general rate proceeding; or**

8 **(2) one hundred million dollars (\$100,000,000).**

9 SECTION 7. IC 8-1-8.7-3 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as
 11 provided in subsection (c), a public utility may not use clean coal
 12 technology at a new or existing electric **or steam** generating facility
 13 without first applying for and obtaining from the commission a
 14 certificate that states that public convenience and necessity will be
 15 served by the use of clean coal technology.

16 (b) The commission shall issue a certificate of public convenience
 17 and necessity under subsection (a) if the commission finds that a clean
 18 coal technology project offers substantial potential of reducing ~~sulfur~~
 19 ~~or nitrogen based~~ pollutants **described in section 1(1) of this chapter**
 20 in a more efficient manner than conventional technologies in general
 21 use as of January 1, 1989. For purposes of this chapter, a project that
 22 the United States Department of Energy has selected for funding under
 23 its Innovative Clean Coal Technology program and is finally approved
 24 for funding after December 31, 1988, is not considered a conventional
 25 technology in general use as of January 1, 1989. When determining
 26 whether to grant a certificate under this section, the commission shall
 27 examine the following factors:

28 (1) The costs for constructing, implementing, and using clean coal
 29 technology compared to the costs for conventional emission
 30 reduction facilities.

31 (2) Whether a clean coal technology project will also extend the
 32 useful life of an existing electric **or steam** generating facility and
 33 the value of that extension.

34 (3) The potential reduction of ~~sulfur and nitrogen based~~ pollutants
 35 **described in section 1(1) of this chapter that can be achieved**
 36 **by the proposed clean coal technology system.**

37 (4) The reduction of ~~sulfur nitrogen based~~ pollutants **described**
 38 **in section 1(1) of this chapter** that can be achieved by
 39 conventional pollution control equipment.

40 (5) Federal ~~sulfur and nitrogen based~~ pollutant emission
 41 standards.

42 (6) The likelihood of success of the proposed project.

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(7) The cost and feasibility of the retirement of an existing electric **or steam** generating facility.

(8) The dispatching priority for the facility utilizing clean coal technology, considering direct fuel costs, revenues and expenses of the utility, and environmental factors associated with byproducts resulting from the utilization of the clean coal technology.

(9) Any other factors the commission considers relevant, including whether the construction, implementation, and use of clean coal technology is in the public's interest.

(c) A public utility is not required to obtain a certificate under this chapter for a clean coal technology project that constitutes a research and development project that may be expensed under IC 8-1-2-6.1.

SECTION 8. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; or

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

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SECTION 9. IC 8-1-8.8-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.3. (a) As used in this chapter, "existing electric or steam generating facility" refers to a facility in Indiana, other than a new energy generating facility, that, regardless of its fuel source, is used to generate electricity or steam.**

(b) The term does not include a facility that generates electricity or steam from the incineration, burning, or heating of any:

- (1) general household;**
- (2) institutional;**
- (3) commercial;**
- (4) industrial lunchroom;**
- (5) office; or**
- (6) landscape;**

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SECTION 10. IC 8-1-8.8-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) As used in this section, "regulated air emissions" means air emissions:**

(1) of:

- (A) carbon, sulfur, mercury, or nitrogen based pollutants;**
- or**
- (B) particulate matter;**

(2) that are produced by an electric or a steam generating facility; and

(3) that are regulated, or reasonably anticipated by the commission to be regulated, by:

- (A) the federal government;**
- (B) the state;**
- (C) a political subdivision of the state; or**
- (D) any agency of a unit of government described in clauses (A) through (C).**

(b) As used in this section, "regulated air emissions project" means a project designed to reduce regulated air emissions from an existing electric or steam generating facility. The term includes projects that provide offset programs, such as agricultural and forestry activities, that reduce the level of greenhouse gases in the atmosphere.

(c) An energy utility (as defined in IC 8-1-2.5-2) may petition the commission for approval of the construction, installation, and operation of a regulated air emissions project. If the commission finds, after notice and hearing, the proposed regulated air

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emissions project to be reasonable and necessary, the commission shall approve the project and provide the following incentives:

(1) The timely recovery of costs associated with the regulated air emissions project, including capital, operation, maintenance, depreciation, tax, and financing costs incurred during the construction and operation of the project.

(2) The recovery of costs associated with:

(A) the purchase of emissions allowances; or

(B) the payment of emission taxes;

arising from compliance with air emissions regulations.

(d) In addition to the incentives described in subsection (c), the commission may provide any other financial incentives the commission considers appropriate.

SECTION 11. IC 8-1-8.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 8.9. Conservation and Load Management Programs for Electric Utilities

Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for additional sources of reliable electric energy in Indiana.

(2) In addition to the construction of new energy generating facilities, the development and implementation of cost effective conservation and load management programs is needed if Indiana is to continue to provide reliable electric utility service at reasonable prices.

(3) Economic barriers exist to the increased development and implementation of conservation and load management programs by electric utilities.

(4) It is in the public interest for the state to encourage the increased development and implementation of cost effective conservation and load management programs by:

(A) removing economic barriers to the development and implementation of conservation and load management programs; and

(B) providing financial incentives to electric utilities to develop and implement conservation and load management programs.

(b) The purpose of this chapter is to:

(1) enhance the competitiveness of Indiana's economy; and

(2) complement the state's efforts to encourage the

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1 construction of new energy generating facilities;
 2 through the promotion and increased use of cost effective
 3 conservation and load management programs.

4 Sec. 2. As used in this chapter, "conservation and load
 5 management program" means a program that:

6 (1) is sponsored by an electric utility;

7 (2) is designed to:

8 (A) reduce the amount of electricity consumed by the
 9 electric utility's customers; or

10 (B) otherwise influence customers' timing or use of
 11 electricity to reduce the demand placed on the electric
 12 utility's distribution system; and

13 (3) employs any of the following to achieve the reduction or
 14 change in customers' electricity use described in subdivision
 15 (2):

16 (A) End use devices or other equipment.

17 (B) Special rates or rate structures.

18 (C) Customer incentives.

19 (D) Customer education initiatives.

20 (E) Other technologies or services.

21 Sec. 3. (a) As used in this chapter, "conservation and load
 22 management costs" means the capital, operating, and maintenance
 23 costs incurred by an electric utility in developing and implementing
 24 a conservation and load management program.

25 (b) The term includes the following costs associated with an
 26 electric utility's conservation and load management program:

27 (1) Research and development costs.

28 (2) Administrative costs.

29 (3) Labor costs, including costs for services of contractors and
 30 subcontractors.

31 (4) Equipment and depreciation costs.

32 (5) Tax costs.

33 (6) Financing costs.

34 (7) Financial incentives paid to participating customers.

35 (8) Marketing and advertising costs.

36 (9) Monitoring and evaluation costs.

37 (10) Financial incentives offered by the electric utility for:

38 (A) investment in; or

39 (B) performance associated with;

40 its conservation and load management program.

41 Sec. 4. (a) As used in this chapter, "electric utility" means a
 42 utility:

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- (1) that generates or distributes electricity; and
 - (2) whose rates and charges are regulated by the commission.
- (b) The term includes the following:
- (1) A rural electric membership corporation organized under IC 8-1-13.
 - (2) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 5. As used in this chapter, "lost revenues" refers to revenues lost by an electric utility as a result of not generating electricity because of the implementation of a conservation and load management program. In determining the revenues lost as a result of a conservation and load management program, an electric utility shall subtract the value of any reduced operating or maintenance costs resulting from the program, including fuel cost savings.

Sec. 6. As used in this chapter, "performance based shared savings incentive" means an incentive mechanism designed to allocate the net system benefits of an electric utility's conservation and load management programs between:

- (1) the electric utility's shareholders; and
- (2) the electric utility's retail customers.

Sec. 7. (a) The commission shall encourage electric utilities to implement conservation and load management programs by creating the following incentives for the implementation of conservation and load management programs, if the programs are found by the commission to be reasonable and necessary:

- (1) The timely recovery of conservation and load management costs over a reasonable amortization period, as determined by the commission.
- (2) The timely recovery of lost revenues, or the authorization of other mechanisms to remove lost revenues as a barrier to the implementation of conservation and load management programs.
- (3) The authorization of a return to the electric utility in the form of:
 - (A) a timely return equal to the electric utility's weighted cost of capital (as determined under 170 IAC 4-6-14) with respect to the electric utility's total unrecovered capital investment in conservation and load management programs; or
 - (B) a performance based shared savings incentive.

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(4) Other financial incentives the commission considers appropriate.

(b) An electric utility that seeks one (1) or more of the incentives described in subsection (a) must file, on a form approved by the commission, an application with the commission for approval of the incentives sought.

(c) The commission shall, after notice and hearing, issue a determination on the eligibility of the electric utility's conservation and load management program for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the electric utility's application under subsection (b).

Sec. 8. (a) As used in this section, communications service has the meaning set forth in IC 8-1-32.5-3.

(b) An electric utility that receives one (1) or more incentives under section 7 of this chapter shall notify the commission not later than one hundred twenty (120) days before using, either directly or indirectly through an affiliate or an unaffiliated third party, any:

- (1) infrastructure;
- (2) equipment; or
- (3) other facilities;

with respect to which the incentives are received, to provide broadband over power lines or other communications service.

(c) Any incentives received by an electric utility under section 7 of this chapter terminate at such time as any infrastructure, equipment, or other facilities described in subsection (b) are used, either directly by the electric utility or indirectly through an affiliate or an unaffiliated third party, to provide broadband over power lines or other communications service. Not later than sixty (60) days after the date that the infrastructure, equipment, or other facilities described in subsection (b) are first used, either directly by the electric utility or indirectly through an affiliate or an unaffiliated third party, to provide broadband over power lines or other communications service, the electric utility shall refund to its Indiana electric customers all incentives received by the electric utility under section 7 of this chapter, plus interest.

SECTION 12. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 35. Renewable Energy Development

Sec. 1. As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric

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1 service to the public. The term does not include a utility that is:

- 2 (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- 3 (2) a corporation organized under IC 8-1-13; or
- 4 (3) a corporation organized under IC 23-17 that is an electric
- 5 cooperative and that has at least one (1) member that is a
- 6 corporation organized under IC 8-1-13.

7 Sec. 2. As used in this chapter, "fund" refers to the renewable
8 energy resources fund established by section 8 of this chapter.

9 Sec. 3. As used in this chapter, "regional transmission
10 organization" refers to a regional transmission organization
11 approved by the Federal Energy Regulatory Commission for the
12 geographic area in which an electricity supplier's assigned service
13 area (as defined in IC 8-1-2.3-2) is located.

14 Sec. 4. As used in this chapter, "renewable energy credit", or
15 "REC", means one (1) megawatt hour of electricity that:

- 16 (1) is:
 - 17 (A) generated from a renewable energy resource described
 - 18 in section 5(a)(1) through 5(a)(12) of this chapter; or
 - 19 (B) conserved through the use of a renewable energy
 - 20 resource described in section 5(a)(13) of this chapter;
- 21 (2) is quantifiable; and
- 22 (3) is possessed by not more than one (1) entity at a time.

23 Sec. 5. (a) As used in this chapter, "renewable energy resources"
24 includes the following sources and programs for the production or
25 conservation of electricity:

- 26 (1) Dedicated crops grown for energy production.
- 27 (2) Methane systems that convert waste products, including
- 28 animal, food, and plant waste, into electricity.
- 29 (3) Methane recovered from landfills.
- 30 (4) Wind.
- 31 (5) Hydropower, other than hydropower involving the
- 32 construction of new dams or the expansion of existing dams.
- 33 (6) Solar photovoltaic cells and panels.
- 34 (7) Fuel cells that directly convert chemical energy in a
- 35 hydrogen rich fuel into electricity.
- 36 (8) Sawmill waste, other than waste derived from virgin
- 37 timber.
- 38 (9) Agricultural crop waste.
- 39 (10) Waste coal.
- 40 (11) Clean coal and energy projects (as defined in
- 41 IC 8-1-8.8-2).
- 42 (12) Combined heat and power systems that:

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- 1 (A) use natural gas or renewable energy resources as
 2 feedstock; and
 3 (B) achieve at least seventy percent (70%) overall
 4 efficiency.
 5 (13) Demand side management or efficiency programs that
 6 reduce electricity consumption or implement load
 7 management or demand response technologies that shift
 8 electric load from periods of higher demand to periods of
 9 lower demand, including the following:
 10 (A) Home weatherization.
 11 (B) Appliance efficiency modifications and replacements.
 12 (C) Lighting efficiency modifications.
 13 (D) Heating and air conditioning modifications or
 14 replacements.
 15 (b) The term does not include energy from the incineration,
 16 burning, or heating of the following:
 17 (1) Tires.
 18 (2) Garbage.
 19 (3) General household, institutional, or commercial waste.
 20 (4) Industrial lunchroom or office waste.
 21 (5) Landscape waste.
 22 (6) Construction or demolition debris.
 23 (7) Feedstock that is municipal, food, plant, industrial, or
 24 animal waste from outside Indiana.
 25 Sec. 6. (a) Each electricity supplier shall supply electricity that
 26 is generated from renewable energy resources described in sections
 27 5(a)(1) through 5(a)(12) of this chapter, or that otherwise qualifies
 28 as a renewable energy resource under section 5(a)(13) of this
 29 chapter, to Indiana customers as a percentage of the total
 30 electricity supplied by the electricity supplier to Indiana customers
 31 during a calendar year as follows:
 32 (1) Not later than the calendar year ending December 31,
 33 2010, at least one percent (1%).
 34 (2) Not later than the calendar year ending December 31,
 35 2012, at least two and one-half percent (2.5%).
 36 (3) Not later than the calendar year ending December 31,
 37 2016, at least four percent (4%).
 38 For purposes of this subsection, electricity is measured in
 39 megawatt hours.
 40 (b) An electricity supplier may use:
 41 (1) a renewable energy resource described in section 5(a)(10)
 42 of this chapter;

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(2) a renewable energy resource described in section 5(a)(11) of this chapter; or

(3) a combination of renewable energy resources described in section 5(a)(10) and 5(a)(11) of this chapter; to generate not more than twenty percent (20%) of the electricity that the electricity supplier is required to supply under subsection (a).

(c) An electricity supplier may not use a renewable energy resource described in section 5(a)(12) of this chapter to generate more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(d) An electricity supplier may use a renewable energy resource described in section 5(a)(13) of this chapter to supply not more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(e) An electricity supplier may own or purchase RECs to comply with subsection (a).

(f) If an electricity supplier exceeds the applicable percentage under subsection (a) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

(1) exceeds the applicable percentage under subsection (a); and

(2) is generated from renewable energy resources in an Indiana facility;

to comply with the requirement under subsection (a) for either or both of the two (2) immediately succeeding compliance years.

(g) An electricity supplier that fails to comply with subsection (a) shall deposit in the fund established by section 8 of this chapter an amount equal to:

(1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under subsection (a); multiplied by

(2) fifty dollars (\$50).

(h) An electricity supplier is not required to comply with subsection (a) if the commission determines that the electricity supplier has demonstrated that:

(1) renewable energy resources or RECs are not available to the electricity supplier in sufficient quantities to allow the electricity supplier to comply with subsection (a); or

(2) the cost of compliance with subsection (a) using the renewable energy resources available to the electricity supplier would result in an unreasonable increase in the basic

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1 rates and charges for electricity supplied to customers of the
2 electricity supplier.

3 The commission shall conduct a public hearing to make a
4 determination under this subsection.

5 (i) If the commission determines under subsection (h) that
6 adequate renewable energy resources are not available or that the
7 cost of available renewable energy resources is not reasonable, the
8 commission shall:

9 (1) reduce or eliminate the affected electricity supplier's
10 obligations under subsection (a) as appropriate; and

11 (2) review its determination not more than twelve (12) months
12 after the reduction or elimination under subdivision (1) takes
13 effect.

14 (j) The commission shall allow an electricity supplier to recover
15 reasonable and necessary costs incurred in:

16 (1) constructing, operating, or maintaining facilities to comply
17 with this chapter; or

18 (2) generating electricity from, or purchasing electricity
19 generated from, a renewable energy resource;

20 by a periodic rate adjustment mechanism.

21 Sec. 7. (a) For purposes of calculating RECs to determine an
22 electricity supplier's compliance with section 6(a) of this chapter,
23 the following apply:

24 (1) Except as provided in subdivisions (2) through (4), one (1)
25 megawatt hour of electricity generated from renewable
26 energy resources in an Indiana facility equals one (1) REC.

27 (2) One (1) megawatt hour of electricity generated from a
28 renewable energy resource described in section 5(a)(2),
29 5(a)(3), 5(a)(4), or 5(a)(8) of this chapter that originates in
30 Indiana equals one and three-tenths (1.3) RECs.

31 (3) One (1) megawatt hour of electricity that is:

32 (A) generated from a renewable energy resource in the
33 territory of a regional transmission organization; and

34 (B) imported into Indiana;

35 equals five-tenths (0.5) REC.

36 (4) One (1) megawatt hour of electricity that is generated by
37 a renewable energy resource described in section 5(a)(12) of
38 this chapter in Indiana equals five-tenths (0.5) REC.

39 (b) Electricity generated by any source outside the territory of
40 a regional transmission organization may not be considered for
41 purposes of calculating an REC to determine an electricity
42 supplier's compliance with section 6(a) of this chapter.

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(c) An electricity supplier may satisfy not more than ten percent (10%) of the electricity supplier's requirement under section 6(a) of this chapter by owning or purchasing RECs calculated under subsection (a)(4).

(d) An electricity supplier may not apportion all or part of a single megawatt of electricity among:

(1) more than one (1) renewable energy resource; or

(2) more than one (1) category set forth in subsection (a); in order to comply with section 6(a) of this chapter.

Sec. 8. (a) The renewable energy resources fund is established to:

(1) support the development, construction, and use of renewable energy resources, including small scale renewable energy resources, in rural and urban Indiana; and

(2) reimburse the Indiana economic development corporation and the commission for expenses incurred under section 9 of this chapter.

(b) The fund consists of the following:

(1) Money deposited under section 6(g) of this chapter.

(2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. (a) This section applies if there is sufficient money in the fund established by section 8 of this chapter to reimburse the Indiana economic development corporation and the commission for expenses incurred under subsection (b).

(b) The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

Sec. 10. Beginning in 2017, and not later than March 1 of each subsequent year, an electricity supplier shall file with the commission a report of the electricity supplier's compliance with this chapter for the preceding calendar year.

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1 **Sec. 11. The commission shall adopt rules under IC 4-22-2 to**
 2 **implement this chapter.**

3 **SECTION 13. [EFFECTIVE JULY 1, 2007] (a) Not later than**
 4 **April 1, 2013, the Indiana utility regulatory commission shall**
 5 **submit a report in an electronic format under IC 5-14-6 to the**
 6 **general assembly. A report submitted under this SECTION must**
 7 **include:**

8 **(1) an analysis of; and**

9 **(2) any legislative proposals the commission believes would**
 10 **increase;**

11 **the effectiveness of and industry compliance with IC 8-1-35, as**
 12 **added by this act.**

13 **(b) This SECTION expires January 1, 2015.**

14 **SECTION 14. [EFFECTIVE UPON PASSAGE] (a) As used in this**
 15 **SECTION, "commission" refers to the Indiana utility regulatory**
 16 **commission created by IC 8-1-1-2.**

17 **(b) As used in this SECTION, "electric utility" means a public**
 18 **utility (as defined in IC 8-1-2-1(a)) that:**

19 **(1) provides retail electric service to:**

20 **(A) more than four hundred thousand (400,000); but**

21 **(B) less than five hundred thousand (500,000);**

22 **retail electric customers in Indiana on April 1, 2007; and**

23 **(2) has a service area that includes, among other counties,**
 24 **each of the counties described in IC 36-7-7.6-1.**

25 **(c) As used in this SECTION, "electric utility holding company"**
 26 **means a corporation, company, partnership, or limited liability**
 27 **company that owns an electric utility.**

28 **(d) As used in this SECTION, "regional public power**
 29 **authority" means a multicounty public power authority established**
 30 **to:**

31 **(1) acquire the generation, transmission, and distribution**
 32 **assets of an electric utility or an electric utility holding**
 33 **company;**

34 **(2) own and operate the assets described in subdivision (1);**
 35 **and**

36 **(3) act as a nonprofit utility to provide retail electric service**
 37 **to residential, commercial, industrial, and governmental**
 38 **customers within the participating units.**

39 **(e) Upon the request of the county executives of three (3) or**
 40 **more counties that are located in an electric utility's service area,**
 41 **the commission shall study the feasibility of establishing a regional**
 42 **public power authority. The study required by this subsection must**

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1 include the following:

2 (1) An examination of the need to:

3 (A) enact new state statutes or regulations; or

4 (B) amend existing state statutes or regulations;

5 to permit the establishment of a regional public power
6 authority.

7 (2) A valuation of the electric utility's generation,
8 transmission, and distribution assets to be acquired by the
9 regional public power authority.

10 (3) A study of:

11 (A) existing and potential funding sources or other
12 mechanisms, including the use of eminent domain,
13 available to the regional public power authority to acquire
14 the assets described in subdivision (2); and

15 (B) the method for determining each participating unit's
16 respective:

17 (i) contribution toward the acquisition of the assets; and

18 (ii) ownership interest in the assets acquired.

19 (4) A study of similarly sized public power authorities
20 operating in the United States, including information on the
21 assets, expenses, operations, management, and customer bases
22 of the authorities, to the extent the information is available.

23 (5) A cost benefit analysis of establishing a regional public
24 power authority.

25 (6) A determination of whether the establishment of a regional
26 public power authority is in the public interest.

27 (7) An examination of any other issues concerning the
28 establishment of a regional public power authority that the
29 commission considers relevant or necessary for study.

30 (f) As necessary to conduct the study required by subsection (e),
31 the commission may:

32 (1) make use of the commission's existing resources and
33 technical staff;

34 (2) employ or consult with outside analysts, engineers, experts,
35 or other professionals; and

36 (3) consult with other:

37 (A) public power authorities operating in the United
38 States; or

39 (B) state regulatory commissions that:

40 (i) regulate public power authorities; or

41 (ii) have conducted similar studies.

42 (g) Not later than December 31, 2007, the commission shall

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1 provide a report to the following on the commission's findings from
2 the study conducted under subsection (e):

3 (1) The regulatory flexibility committee established by
4 IC 8-1-2.6-4. The report provided to the regulatory flexibility
5 committee under this subsection must be separate from the
6 commission's annual report to the regulatory flexibility
7 committee under IC 8-1-2.5-9(b).

8 (2) The legislative council. The report provided to the
9 legislative council under this subsection must be in an
10 electronic format under IC 5-14-6.

11 (3) The county executive of each county in the electric utility's
12 service area on April 1, 2007.

13 (h) The report required by subsection (g) must contain the
14 following:

15 (1) A summary of the commission's findings with respect to
16 each issue set forth in subsection (e).

17 (2) Recommendations to the regulatory flexibility committee
18 on any legislation needed to establish a regional public power
19 authority.

20 (3) Any other findings or recommendations that the
21 commission considers relevant or useful to the entities
22 described in subsection (g).

23 (i) Before the commission submits its report under subsection
24 (g), any entity described in subsection (g) may require the
25 commission to provide one (1) or more status reports on the
26 commission's study under subsection (e). A status report provided
27 to the legislative council under this subsection must be in an
28 electronic format under IC 5-14-6.

29 (j) The regulatory flexibility committee:

30 (1) shall review the analyses and recommendations of the
31 commission contained in:

32 (A) any status reports provided by the commission under
33 subsection (i); and

34 (B) the commission's final report provided under
35 subsection (g); and

36 (2) may recommend to the general assembly any legislation
37 that is necessary to establish a regional public power
38 authority in Indiana, if the regulatory flexibility committee
39 determines that the establishment of a regional public power
40 authority is in the public interest.

41 (k) This SECTION does not empower the commission or any
42 entity described in subsection (g) to require an electric utility to

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1 disclose confidential and proprietary business plans and other
2 confidential information without adequate protection of the
3 information. The commission and all entities described in
4 subsection (g) shall exercise all necessary caution to avoid
5 disclosure of confidential information supplied under this
6 SECTION.

7 SECTION 15. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy and Utilities, to which was referred House Bill 1824, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana code concerning utilities and transportation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1824 as introduced.)

CROOKS, Chair

Committee Vote: yeas 6, nays 5.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1824 be amended to read as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 3.

Page 4, delete lines 1 through 9.

Page 4, line 10, delete "2." and insert "1.".

Page 4, line 35, delete "The" and insert "**Upon the request of the county executives of three (3) or more counties that are located in an electric utility's service area, the**".

Page 6, delete lines 5 through 6.

Page 6, line 7, delete "(4)" and insert "**(3)**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1824 as printed February 20, 2007.)

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SENATE MOTION

Madam President: I move that Senator Hershman be added as cosponsor of Engrossed House Bill 1824.

GARD

 COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Regulatory Affairs, to which was referred House Bill No. 1824, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions of ~~sulfur or nitrogen based~~ pollutants **that are:**

(A) associated with the combustion or use of coal; and

(B) **regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

EH 1824—LS 6519/DI 44+



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(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

- (1) research and development designed to increase use of Indiana coal; and
- (2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:
 - (A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or
 - (B) is justified, because of economic considerations or governmental requirements, in utilizing nonIndiana coal; after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions of ~~sulfur or nitrogen based~~ pollutants **that are:**
 - (A) associated with ~~the~~ combustion or use of coal; and
 - (B) **regulated, or reasonably anticipated by the commission to be regulated, by:**
 - (i) **the federal government;**
 - (ii) **the state;**
 - (iii) **a political subdivision of the state; or**
 - (iv) **any agency of a unit of government described in items (i) through (iii); and**
- (2) that either:
 - (A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or
 - (B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding

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on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

"Qualified pollution control property" means an air pollution control device on a coal burning electric **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric **or steam** generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, and before March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

- (1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or
- (2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some nonIndiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions of ~~sulfur or nitrogen based~~ pollutants **that are:**
 - (A) associated with the combustion or use of coal; and
 - (B) **regulated, or reasonably anticipated by the commission to be regulated, by:**
 - (i) the federal government;
 - (ii) the state;
 - (iii) a political subdivision of the state; or
 - (iv) any agency of a unit of government described in items (i) through (iii); and
- (2) that either:

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(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric **or steam** utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing nonIndiana coal;

after the technology is in place.

SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions of sulfur, mercury, or nitrogen oxides or other ~~regulated~~ air emissions **that are:**

(A) associated with the combustion or use of coal; and

(B) **regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of

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Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy **or steam** generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions of ~~sulfur or nitrogen based~~ pollutants **that are:**

- (A) associated with the combustion or use of coal; and
- (B) **regulated, or reasonably anticipated by the commission to be regulated, by:**
 - (i) **the federal government;**
 - (ii) **the state;**
 - (iii) **a political subdivision of the state; or**
 - (iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

- (A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or
- (B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

SECTION 6. IC 8-1-8.7-3 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (c), a public utility may not use clean coal technology at a new or existing electric **or steam** generating facility without first applying for and obtaining from the commission a certificate that states that public convenience and necessity will be served by the use of clean coal technology.

(b) The commission shall issue a certificate of public convenience and necessity under subsection (a) if the commission finds that a clean coal technology project offers substantial potential of reducing ~~sulfur or nitrogen based~~ pollutants **described in section 1(1) of this chapter** in a more efficient manner than conventional technologies in general use as of January 1, 1989. For purposes of this chapter, a project that the United States Department of Energy has selected for funding under its Innovative Clean Coal Technology program and is finally approved for funding after December 31, 1988, is not considered a conventional technology in general use as of January 1, 1989. When determining whether to grant a certificate under this section, the commission shall examine the following factors:

- (1) The costs for constructing, implementing, and using clean coal technology compared to the costs for conventional emission reduction facilities.
- (2) Whether a clean coal technology project will also extend the useful life of an existing electric **or steam** generating facility and the value of that extension.
- (3) The potential reduction of ~~sulfur and nitrogen based~~ pollutants **described in section 1(1) of this chapter that can be** achieved by the proposed clean coal technology system.
- (4) The reduction of ~~sulfur nitrogen based~~ pollutants **described in section 1(1) of this chapter** that can be achieved by conventional pollution control equipment.
- (5) Federal ~~sulfur and nitrogen based~~ pollutant emission standards.
- (6) The likelihood of success of the proposed project.
- (7) The cost and feasibility of the retirement of an existing electric **or steam** generating facility.
- (8) The dispatching priority for the facility utilizing clean coal technology, considering direct fuel costs, revenues and expenses of the utility, and environmental factors associated with byproducts resulting from the utilization of the clean coal technology.
- (9) Any other factors the commission considers relevant, including whether the construction, implementation, and use of

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clean coal technology is in the public's interest.

(c) A public utility is not required to obtain a certificate under this chapter for a clean coal technology project that constitutes a research and development project that may be expensed under IC 8-1-2-6.1.

SECTION 7. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy **or steam** generating facility and directly or indirectly reduces airborne emissions of sulfur, mercury, or nitrogen oxides or other ~~regulated~~ air emissions **that are:**

- (A) associated with the combustion or use of coal; and
- (B) **regulated, or reasonably anticipated by the commission to be regulated, by:**
 - (i) the federal government;
 - (ii) the state;
 - (iii) a political subdivision of the state; or
 - (iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

- (A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or
- (B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

SECTION 8. IC 8-1-8.8-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.3. (a) As used in this chapter, "existing electric or steam generating facility" refers to a facility in Indiana, other than a new energy generating facility, that, regardless of its fuel source, is used to generate electricity or steam.

(b) The term does not include a facility that generates electricity or steam from the incineration, burning, or heating of any:

- (1) general household;
- (2) institutional;
- (3) commercial;
- (4) industrial lunchroom;

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- (5) office; or
- (6) landscape;
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SECTION 9. IC 8-1-8.8-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) As used in this section, "regulated air emissions" means air emissions from an electric or steam generating facility that are regulated, or reasonably anticipated by the commission to be regulated, by:**

- (1) the federal government;
- (2) the state;
- (3) a political subdivision of the state; or
- (4) any agency of a unit of government described in subdivisions (1) through (3).

(b) As used in this section, "regulated air emissions project" means a project designed to reduce regulated air emissions from an existing electric or steam generating facility. The term includes projects that provide offset programs, such as agricultural and forestry activities, that reduce the level of greenhouse gases in the atmosphere.

(c) An energy utility (as defined in IC 8-1-2.5-2) may petition the commission for approval of the construction, installation, and operation of a regulated air emissions project. If the commission finds, after notice and hearing, the proposed regulated air emissions project to be reasonable and necessary, the commission shall approve the project and provide the following incentives:

- (1) The timely recovery of costs associated with the regulated air emissions project, including capital, operation, maintenance, depreciation, tax, and financing costs incurred during the construction and operation of the project.
- (2) The recovery of costs associated with:
 - (A) the purchase of emissions allowances; or
 - (B) the payment of emission taxes;
 arising from compliance with air emissions regulations.

(d) In addition to the incentives described in subsection (c), the commission may provide any other financial incentives the commission considers appropriate.

SECTION 10. IC 8-1-8.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 8.9. Conservation and Load Management Programs for Electric Utilities



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Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for additional sources of reliable electric energy in Indiana.

(2) In addition to the construction of new energy generating facilities, the development and implementation of cost effective conservation and load management programs is needed if Indiana is to continue to provide reliable electric utility service at reasonable prices.

(3) Economic barriers exist to the increased development and implementation of conservation and load management programs by electric utilities.

(4) It is in the public interest for the state to encourage the increased development and implementation of cost effective conservation and load management programs by:

(A) removing economic barriers to the development and implementation of conservation and load management programs; and

(B) providing financial incentives to electric utilities to develop and implement conservation and load management programs.

(b) The purpose of this chapter is to:

(1) enhance the competitiveness of Indiana's economy; and

(2) complement the state's efforts to encourage the construction of new energy generating facilities;

through the promotion and increased use of cost effective conservation and load management programs.

Sec. 2. As used in this chapter, "conservation and load management program" means a program that:

(1) is sponsored by an electric utility;

(2) is designed to:

(A) reduce the amount of electricity consumed by the electric utility's customers; or

(B) otherwise influence customers' timing or use of electricity to reduce the demand placed on the electric utility's distribution system; and

(3) employs any of the following to achieve the reduction or change in customers' electricity use described in subdivision (2):

(A) End use devices or other equipment.

(B) Special rates or rate structures.

(C) Customer incentives.

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(D) Customer education initiatives.

(E) Other technologies or services.

Sec. 3. (a) As used in this chapter, "conservation and load management costs" means the capital, operating, and maintenance costs incurred by an electric utility in developing and implementing a conservation and load management program.

(b) The term includes the following costs associated with an electric utility's conservation and load management program:

- (1) Research and development costs.**
 - (2) Administrative costs.**
 - (3) Labor costs, including costs for services of contractors and subcontractors.**
 - (4) Equipment and depreciation costs.**
 - (5) Tax costs.**
 - (6) Financing costs.**
 - (7) Financial incentives paid to participating customers.**
 - (8) Marketing and advertising costs.**
 - (9) Monitoring and evaluation costs.**
 - (10) Financial incentives offered by the electric utility for:**
 - (A) investment in; or**
 - (B) performance associated with;**
- its conservation and load management program.**

Sec. 4. (a) As used in this chapter, "electric utility" means a utility:

- (1) that generates or distributes electricity; and**
- (2) whose rates and charges are regulated by the commission.**

(b) The term includes the following:

- (1) A rural electric membership corporation organized under IC 8-1-13.**
- (2) A corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

Sec. 5. As used in this chapter, "lost revenues" refers to revenues lost by an electric utility as a result of not generating electricity because of the implementation of a conservation and load management program. In determining the revenues lost as a result of a conservation and load management program, an electric utility shall subtract the value of any reduced operating or maintenance costs resulting from the program, including fuel cost savings.

Sec. 6. As used in this chapter, "performance based shared savings incentive" means an incentive mechanism designed to

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allocate the net system benefits of an electric utility's conservation and load management programs between:

- (1) the electric utility's shareholders; and
- (2) the electric utility's retail customers.

Sec. 7. (a) The commission shall encourage electric utilities to implement conservation and load management programs by creating the following incentives for the implementation of conservation and load management programs, if the programs are found by the commission to be reasonable and necessary:

- (1) The timely recovery of conservation and load management costs over a reasonable amortization period, as determined by the commission.
- (2) The timely recovery of lost revenues, or the authorization of other mechanisms to remove lost revenues as a barrier to the implementation of conservation and load management programs.
- (3) The authorization of a return to the electric utility in the form of:
 - (A) a timely return equal to the electric utility's weighted cost of capital (as determined under 170 IAC 4-6-14) with respect to the electric utility's total unrecovered capital investment in conservation and load management programs; or
 - (B) a performance based shared savings incentive.
- (4) Other financial incentives the commission considers appropriate.

(b) An electric utility that seeks one (1) or more of the incentives described in subsection (a) must file, on a form approved by the commission, an application with the commission for approval of the incentives sought.

(c) The commission shall, after notice and hearing, issue a determination on the eligibility of the electric utility's conservation and load management program for the financial incentives described in subsection (a) not later than one hundred twenty (120) days after the date of the electric utility's application under subsection (b)."

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Page 1, line 10, after "counties," insert "**each of**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1824 as reprinted February 24, 2007.)

HERSHMAN, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senator Tallian be added as cosponsor of Engrossed House Bill 1824.

GARD

SENATE MOTION

Madam President: I move that Engrossed House Bill 1824 be amended to read as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government**;

(ii) **the state**;

(iii) **a political subdivision of the state**; **or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**



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(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) As used in this section, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tippie.

(c) Except as provided in subsection (d), the commission shall allow a utility to recover as operating expenses those expenses associated with:

(1) research and development designed to increase use of Indiana coal; and

(2) preconstruction costs (including design and engineering costs) associated with employing clean coal technology at a new or existing coal burning electric **or steam** generating facility if the commission finds that the facility:

(A) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(B) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

(d) The commission may only allow a utility to recover preconstruction costs as operating expenses on a particular project if the commission awarded a certificate under IC 8-1-8.7 for that project.

(e) The commission shall establish guidelines for determining recoverable expenses.

SECTION 2. IC 8-1-2-6.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.6. (a) As used in this section:

"Clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used at a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with **the** combustion or use of coal;

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and

(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

- (i) the federal government;**
- (ii) the state;**
- (iii) a political subdivision of the state; or**
- (iv) any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

"Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

"Qualified pollution control property" means an air pollution control device on a coal burning electric **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission, that meets applicable state or federal requirements, and that is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

"Utility" refers to any electric **or steam** generating utility allowed by law to earn a return on its investment.

(b) Upon the request of a utility that began construction after October 1, 1985, and before March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction, but only if at the time of the application and thereafter:

- (1) the facility burns only Indiana coal as its primary fuel source once the air pollution control device is fully operational; or
- (2) the utility can prove to the commission that the utility is justified because of economic considerations or governmental requirements in utilizing some non-Indiana coal.

(c) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 3. IC 8-1-2-6.7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government**;

(ii) **the state**;

(iii) **a political subdivision of the state**; **or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(b) The commission shall allow a public or municipally owned electric **or steam** utility that incorporates clean coal technology to depreciate that technology over a period of not less than ten (10) years or the useful economic life of the technology, whichever is less and not more than twenty (20) years if it finds that the facility where the clean coal technology is employed:

(1) utilizes and will continue to utilize (as its primary fuel source) Indiana coal; or

(2) is justified, because of economic considerations or governmental requirements, in utilizing non-Indiana coal;

after the technology is in place.

SECTION 4. IC 8-1-2-6.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.8. (a) This section applies to a utility that begins construction of qualified pollution control property after March 31, 2002.

(b) As used in this section, "clean coal technology" means a

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technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; or

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government;**

(ii) **the state;**

(iii) **a political subdivision of the state; or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).

(c) As used in this section, "qualified pollution control property" means an air pollution control device on a coal burning energy **or steam** generating facility or any equipment that constitutes clean coal technology that has been approved for use by the commission and that meets applicable state or federal requirements.

(d) As used in this section, "utility" refers to any energy **or steam** generating utility allowed by law to earn a return on its investment.

(e) Upon the request of a utility that begins construction after March 31, 2002, of qualified pollution control property that is to be used and useful for the public convenience, the commission shall for ratemaking purposes add to the value of that utility's property the value of the qualified pollution control property under construction.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 8-1-8.7-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing electric **or steam** generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, **mercury**, or nitrogen based pollutants; **or**

(ii) **particulate matter**;

(B) **that are** associated with the combustion or use of coal; and

(C) **that are regulated, or reasonably anticipated by the commission to be regulated, by:**

(i) **the federal government**;

(ii) **the state**;

(iii) **a political subdivision of the state**; **or**

(iv) **any agency of a unit of government described in items (i) through (iii); and**

(2) that either:

(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989."

Delete pages 2 through 5.

Page 6, delete lines 1 through 8.

Page 7, delete lines 14 through 39, begin a new paragraph and insert:

"SECTION 7. IC 8-1-8.8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "clean coal technology" means a technology (including precombustion treatment of coal):

(1) that is used in a new or existing energy generating facility and directly or indirectly reduces **or avoids** airborne emissions:

(A) of:

(i) **carbon**, sulfur, mercury, or nitrogen oxides;

(ii) **particulate matter**; **or**

(iii) other ~~regulated~~ air emissions;

(B) **that are** associated with the combustion or use of coal; and

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(C) that are regulated, or reasonably anticipated by the commission to be regulated, by:

- (i) the federal government;
- (ii) the state;
- (iii) a political subdivision of the state; or
- (iv) any agency of a unit of government described in items (i) through (iii); and

(2) that either:

(A) was not in general commercial use at the same or greater scale in new or existing facilities in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549); or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after the date of enactment of the federal Clean Air Act Amendments of 1990 (P.L.101-549).".

Page 8, line 16, delete "emissions from an" and insert "**emissions:**

(1) of:

(A) carbon, sulfur, mercury, or nitrogen based pollutants;
or

(B) particulate matter;

(2) that are produced by an electric or a steam generating facility; and

(3) that are regulated, or reasonably anticipated by the commission to be regulated, by:

(A) the federal government;

(B) the state;

(C) a political subdivision of the state; or

(D) any agency of a unit of government described in clauses (A) through (C).".

Page 8, delete lines 17 through 23.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1824 as printed March 30, 2007.)

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1824 be amended to read as follows:

Page 5, between lines 27 and 28, begin a new paragraph and insert:
 "SECTION 5. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8.4. Electric Line Facilities Projects

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "electric line facilities" means the following:

- (1) Overhead or underground electric transmission lines.
- (2) Overhead or underground electric distribution lines.
- (3) Electric substations.

Sec. 3. As used in this chapter, "electric line facilities project" means the construction, operation, maintenance, reconstruction, relocation, addition to, upgrading of, or removal of electric line facilities.

Sec. 4. As used in this chapter, "electricity supplier" means a public utility that furnishes retail electric service to the public.

Sec. 5. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-2-1.

Sec. 6. As used in this chapter, "regional transmission organization" refers to the regional transmission organization approved by the Federal Energy Regulatory Commission for the control area in which an electricity supplier operates electric line facilities.

Sec. 7. The commission shall encourage electric line facilities projects by creating the following financial incentives for electric line facilities that are reasonable and necessary:

- (1) The timely recovery of costs incurred by an electricity supplier in an electric line facilities project.
- (2) The timely recovery of costs, by means of a periodic rate adjustment mechanism, incurred by an electricity supplier taking service under a tariff of, or being assessed costs by, a regional transmission organization.

Sec. 8. (a) An electricity supplier must submit an application to the commission for approval of an electric line facilities project for which the electricity supplier seeks to receive a financial incentive created under section 7 of this chapter.

(b) The commission shall prescribe the form for an application

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submitted under this section.

(c) Upon receipt of an application under subsection (a), the commission shall review the application for completeness. The commission may request additional information from an applicant as needed.

(d) The commission shall, after notice and hearing, issue a determination of an electric line facilities project's eligibility for the financial incentives described in section 7 of this chapter not later than one hundred eighty (180) days after the date of the application.

(e) Subject to subsection (g), the commission shall approve an application by an electricity supplier for an electric line facilities project that is reasonable and necessary. An electric line facilities project is presumed to be reasonable and necessary if the electric line facilities project is consistent with, or part of, a plan developed by the regional transmission organization.

(f) This section does not relieve an electricity supplier of the duty to obtain any certificate required under IC 8-1-8.5 or IC 8-1-8.7.

(g) The commission shall not approve a financial incentive for that part of an electric line facilities project that exceeds the lesser of:

- (1) five percent (5%) of the electricity supplier's rate base approved by the commission in the electricity supplier's most recent general rate proceeding; or
- (2) one hundred million dollars (\$100,000,000)."

Page 12, between lines 3 and 4, begin a new paragraph and insert:

"Sec. 8. (a) As used in this section, communications service has the meaning set forth in IC 8-1-32.5-3.

(b) An electric utility that receives one (1) or more incentives under section 7 of this chapter shall notify the commission not later than one hundred twenty (120) days before using, either directly or indirectly through an affiliate or an unaffiliated third party, any:

- (1) infrastructure;
- (2) equipment; or
- (3) other facilities;

with respect to which the incentives are received, to provide broadband over power lines or other communications service.

(c) Any incentives received by an electric utility under section 7 of this chapter terminate at such time as any infrastructure, equipment, or other facilities described in subsection (b) are used, either directly by the electric utility or indirectly through an

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affiliate or an unaffiliated third party, to provide broadband over power lines or other communications service. Not later than sixty (60) days after the date that the infrastructure, equipment, or other facilities described in subsection (b) are first used, either directly by the electric utility or indirectly through an affiliate or an unaffiliated third party, to provide broadband over power lines or other communications service, the electric utility shall refund to its Indiana electric customers all incentives received by the electric utility under section 7 of this chapter, plus interest.

SECTION 12. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 35. Renewable Energy Development

Sec. 1. As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public. The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- (2) a corporation organized under IC 8-1-13; or
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 2. As used in this chapter, "fund" refers to the renewable energy resources fund established by section 8 of this chapter.

Sec. 3. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission for the geographic area in which an electricity supplier's assigned service area (as defined in IC 8-1-2.3-2) is located.

Sec. 4. As used in this chapter, "renewable energy credit", or "REC", means one (1) megawatt hour of electricity that:

- (1) is:
 - (A) generated from a renewable energy resource described in section 5(a)(1) through 5(a)(12) of this chapter; or
 - (B) conserved through the use of a renewable energy resource described in section 5(a)(13) of this chapter;
- (2) is quantifiable; and
- (3) is possessed by not more than one (1) entity at a time.

Sec. 5. (a) As used in this chapter, "renewable energy resources" includes the following sources and programs for the production or conservation of electricity:

- (1) Dedicated crops grown for energy production.
- (2) Methane systems that convert waste products, including

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animal, food, and plant waste, into electricity.

(3) Methane recovered from landfills.

(4) Wind.

(5) Hydropower, other than hydropower involving the construction of new dams or the expansion of existing dams.

(6) Solar photovoltaic cells and panels.

(7) Fuel cells that directly convert chemical energy in a hydrogen rich fuel into electricity.

(8) Sawmill waste, other than waste derived from virgin timber.

(9) Agricultural crop waste.

(10) Waste coal.

(11) Clean coal and energy projects (as defined in IC 8-1-8.8-2).

(12) Combined heat and power systems that:

(A) use natural gas or renewable energy resources as feedstock; and

(B) achieve at least seventy percent (70%) overall efficiency.

(13) Demand side management or efficiency programs that reduce electricity consumption or implement load management or demand response technologies that shift electric load from periods of higher demand to periods of lower demand, including the following:

(A) Home weatherization.

(B) Appliance efficiency modifications and replacements.

(C) Lighting efficiency modifications.

(D) Heating and air conditioning modifications or replacements.

(b) The term does not include energy from the incineration, burning, or heating of the following:

(1) Tires.

(2) Garbage.

(3) General household, institutional, or commercial waste.

(4) Industrial lunchroom or office waste.

(5) Landscape waste.

(6) Construction or demolition debris.

(7) Feedstock that is municipal, food, plant, industrial, or animal waste from outside Indiana.

Sec. 6. (a) Each electricity supplier shall supply electricity that is generated from renewable energy resources described in sections 5(a)(1) through 5(a)(12) of this chapter, or that otherwise qualifies

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as a renewable energy resource under section 5(a)(13) of this chapter, to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers during a calendar year as follows:

- (1) Not later than the calendar year ending December 31, 2010, at least one percent (1%).
- (2) Not later than the calendar year ending December 31, 2012, at least two and one-half percent (2.5%).
- (3) Not later than the calendar year ending December 31, 2016, at least four percent (4%).

For purposes of this subsection, electricity is measured in megawatt hours.

(b) An electricity supplier may use:

- (1) a renewable energy resource described in section 5(a)(10) of this chapter;
- (2) a renewable energy resource described in section 5(a)(11) of this chapter; or
- (3) a combination of renewable energy resources described in section 5(a)(10) and 5(a)(11) of this chapter;

to generate not more than twenty percent (20%) of the electricity that the electricity supplier is required to supply under subsection (a).

(c) An electricity supplier may not use a renewable energy resource described in section 5(a)(12) of this chapter to generate more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(d) An electricity supplier may use a renewable energy resource described in section 5(a)(13) of this chapter to supply not more than ten percent (10%) of the electricity that the electricity supplier is required to supply under subsection (a).

(e) An electricity supplier may own or purchase RECs to comply with subsection (a).

(f) If an electricity supplier exceeds the applicable percentage under subsection (a) in a compliance year, the electricity supplier may carry forward the amount of electricity that:

- (1) exceeds the applicable percentage under subsection (a); and
- (2) is generated from renewable energy resources in an Indiana facility;

to comply with the requirement under subsection (a) for either or both of the two (2) immediately succeeding compliance years.

(g) An electricity supplier that fails to comply with subsection

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(a) shall deposit in the fund established by section 8 of this chapter an amount equal to:

- (1) the number of megawatt hours of electricity that the electricity supplier was required to but failed to supply under subsection (a); multiplied by
- (2) fifty dollars (\$50).

(h) An electricity supplier is not required to comply with subsection (a) if the commission determines that the electricity supplier has demonstrated that:

- (1) renewable energy resources or RECs are not available to the electricity supplier in sufficient quantities to allow the electricity supplier to comply with subsection (a); or
- (2) the cost of compliance with subsection (a) using the renewable energy resources available to the electricity supplier would result in an unreasonable increase in the basic rates and charges for electricity supplied to customers of the electricity supplier.

The commission shall conduct a public hearing to make a determination under this subsection.

(i) If the commission determines under subsection (h) that adequate renewable energy resources are not available or that the cost of available renewable energy resources is not reasonable, the commission shall:

- (1) reduce or eliminate the affected electricity supplier's obligations under subsection (a) as appropriate; and
- (2) review its determination not more than twelve (12) months after the reduction or elimination under subdivision (1) takes effect.

(j) The commission shall allow an electricity supplier to recover reasonable and necessary costs incurred in:

- (1) constructing, operating, or maintaining facilities to comply with this chapter; or
- (2) generating electricity from, or purchasing electricity generated from, a renewable energy resource;

by a periodic rate adjustment mechanism.

Sec. 7. (a) For purposes of calculating RECs to determine an electricity supplier's compliance with section 6(a) of this chapter, the following apply:

- (1) Except as provided in subdivisions (2) through (4), one (1) megawatt hour of electricity generated from renewable energy resources in an Indiana facility equals one (1) REC.
- (2) One (1) megawatt hour of electricity generated from a

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renewable energy resource described in section 5(a)(2), 5(a)(3), 5(a)(4), or 5(a)(8) of this chapter that originates in Indiana equals one and three-tenths (1.3) RECs.

(3) One (1) megawatt hour of electricity that is:

(A) generated from a renewable energy resource in the territory of a regional transmission organization; and

(B) imported into Indiana;

equals five-tenths (0.5) REC.

(4) One (1) megawatt hour of electricity that is generated by a renewable energy resource described in section 5(a)(12) of this chapter in Indiana equals five-tenths (0.5) REC.

(b) Electricity generated by any source outside the territory of a regional transmission organization may not be considered for purposes of calculating an REC to determine an electricity supplier's compliance with section 6(a) of this chapter.

(c) An electricity supplier may satisfy not more than ten percent (10%) of the electricity supplier's requirement under section 6(a) of this chapter by owning or purchasing RECs calculated under subsection (a)(4).

(d) An electricity supplier may not apportion all or part of a single megawatt of electricity among:

(1) more than one (1) renewable energy resource; or

(2) more than one (1) category set forth in subsection (a);

in order to comply with section 6(a) of this chapter.

Sec. 8. (a) The renewable energy resources fund is established to:

(1) support the development, construction, and use of renewable energy resources, including small scale renewable energy resources, in rural and urban Indiana; and

(2) reimburse the Indiana economic development corporation and the commission for expenses incurred under section 9 of this chapter.

(b) The fund consists of the following:

(1) Money deposited under section 6(g) of this chapter.

(2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that

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accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 9. (a) This section applies if there is sufficient money in the fund established by section 8 of this chapter to reimburse the Indiana economic development corporation and the commission for expenses incurred under subsection (b).

(b) The Indiana economic development corporation, in consultation with the commission, shall develop a strategy to attract renewable energy manufacturing facilities, including wind turbine component manufacturers, to Indiana.

Sec. 10. Beginning in 2017, and not later than March 1 of each subsequent year, an electricity supplier shall file with the commission a report of the electricity supplier's compliance with this chapter for the preceding calendar year.

Sec. 11. The commission shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 13. [EFFECTIVE JULY 1, 2007] (a) Not later than April 1, 2013, the Indiana utility regulatory commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this SECTION must include:

(1) an analysis of; and

(2) any legislative proposals the commission believes would increase;

the effectiveness of and industry compliance with IC 8-1-35, as added by this act.

(b) This SECTION expires January 1, 2015."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1824 as printed March 30, 2007.)

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